

Second Session - Thirty-Ninth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Crown Corporations

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON CROWN CORPORATIONS**

Monday, March 10, 2008

TIME – 6 p.m

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Ms. Flor Marcelino (Wellington)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Ms. Allan

Mses. Blady, Brick, Messrs. Cullen, Eichler, Jha, Maguire, Ms. Marcelino, Mr. Reid, Ms. Selby, Mrs. Taillieu

APPEARING:

Mr. David Faurshou, MLA for Portage la Prairie

Mr. Kevin Lamoureux, MLA for Inkster

Mr. Doug Sexsmith, President and Chief Executive Officer, Workers Compensation Board of Manitoba

MATTERS UNDER CONSIDERATION:

The Annual Report of the Workers Compensation Board for the year ended December 31, 2005

The Annual Report of the Workers Compensation Board for the year ended December 31, 2006

The Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2005

The Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2006

The Workers Compensation Board 2005-2009 Five Year Plan

The Workers Compensation Board 2006-2010 Five Year Plan

The Workers Compensation Board 2007-2011 Five Year Plan

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Mr. Chairperson: Good evening, everyone. Will the Standing Committee on Crown Corporations please come to order.

This meeting has been called to consider the following reports: the Annual Report of the Workers Compensation Board for the year ended December 31, 2005; the Annual Report of the Workers Compensation Board for the year ended December 31, 2006; the Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2005; the Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2006; the Workers Compensation Board 2005-2009 Five Year Plan; the Workers Compensation Board 2006-2010 Five Year Plan; and the Workers Compensation Board 2007-2011 Five Year Plan.

Before we get started, are there any suggestions from the committee as to how long we wish to sit this evening?

Ms. Marilyn Brick (St. Norbert): Can we sit until 8 o'clock and at that point we can reassess to see where we are in terms of passing reports?

Mr. Chairperson: It's been suggested that this committee sit until 8 p.m. and then review our sitting hour at that point in time. *[Agreed]*

Are there any suggestions as to which order we should consider the reports that were previously mentioned?

Mrs. Mavis Taillieu (Morris): Can we just have a global discussion?

Mr. Chairperson: Global discussion has been suggested to the committee. Is the committee agreed? *[Agreed]*

The minister's okay? Thank you to members. We'll consider reports in a global fashion then.

Does the honourable minister responsible for the Workers Compensation Board wish to make an opening statement?

Hon. Nancy Allan (Minister responsible for The Workers Compensation Act): No.

Mr. Chairperson: Perhaps the minister could invite her staff to the table and perhaps introduce them at this point in time as well.

Ms. Allan: Thank you. I'd like to welcome to the table Tom Farrell, the chair of the board of the Workers Compensation Board, and Doug Sexsmith, the CEO of the Workers Compensation Board.

Mr. Chairperson: We thank the honourable minister for the introductions.

Does the critic for the official opposition have an opening statement?

Mrs. Taillieu: No, I don't. We'll just proceed into the questions.

Mr. Chairperson: I thank the honourable member.

Do the representatives from the Workers Compensation Board wish to make any opening statements?

Mr. Doug Sexsmith (President and Chief Executive Officer, Workers Compensation Board of Manitoba): Yes. Thank you. I'd just like to begin by saying that at the last committee there were a number of questions about ChangeMakers, the WCB's agency of record for advertising and public relations services. There was discussion about the services that ChangeMakers provides including in connection with the WCB's public awareness campaign. So, for the committee's consideration, I would like to table the WCB's agency-of-record contract with ChangeMakers.

Mr. Chairperson: Thank you, Mr. Sexsmith, for the opening comments. The floor is now open for questions.

Mrs. Taillieu: Thank you very much, and, again, welcome to Mr. Farrell and Mr. Sexsmith. It's nice to see you, and thanks to Mr. Sexsmith for offering a meeting which we did have last week. He also was kind enough to provide a number of answers to a number of questions that came forward at the December meeting.

So, with that, I have a few questions with all of the things that we discussed, and I guess we'll get started.

I did do some looking at what was on the Internet in terms of the Workers Compensation Board, so I'd like to start out in terms of any questions regarding the legislative overview that was on the Internet, specifically in the employers' section,

because I found that I had questions about this when I was reading it.

The classifications, the employer classifications, classes A, B, C, D and E. Now I know we discussed these at the meeting that we had on Friday, and Mr. Sexsmith did send me a fax today. But I would like this to go on the record, so I'm just going to ask Mr. Sexsmith to please explain all these classes and who's in them, the employer classifications, classes A to E, inclusive.

* (18:10)

Mr. Sexsmith: Under the legislation, there are several classes. Class A is provincially funded agencies. Class B is self-insured employers as set out in a regulation. These employers are Canadian National Railway and subsidiaries, Canadian Pacific Railway and subsidiaries, Air Canada and VIA Rail. Class C is the Province of Manitoba and its agencies. Examples of agencies include the WCB, Manitoba Public Insurance Corporation, Manitoba Liquor Control Commission, Manitoba Hydro and Manitoba Lotteries Corporation. Class D is the City of Winnipeg and Class E is all industries not in the other classes and not excluded from mandatory coverage. Classes B, C and D are assessed on a self-insured basis. Class E employers are assessed on a collective basis.

The federal government and its agencies are also self-insured, but are separate from Manitoba-covered employers. The WCB administers the federal Government Employees Compensation Act program for the federal government.

Mrs. Taillieu: I notice, just to go further on, it does talk about the self-insured employers, the Class B, as CNR, Air Canada, VIA Rail Canada and Canadian Pacific. There's no mention though of the fact that the Province of Manitoba and the Crown corporations are self-insured. There is no mention anywhere that I could find. There was no mention that Hydro, MPI, MLCC were self-insured agencies. Why would that be?

Mr. Sexsmith: Well, I believe it says, Class C: the Province of Manitoba and its agencies, and so examples of agencies include the Crown corporations.

Mrs. Taillieu: Thank you.

Are there different rates in the different classes?

Mr. Sexsmith: Actually, the Class E employers are premium-paying employers. The other classes are

self-insured employers, which is a pay-as-you-go employer.

Mrs. Taillieu: Could you please explain pay-as-you-go? It sounds like some people are paying regularly on every payroll, on every paycheque, on every person that's covered by Workers Comp, and then some people only—if you say, pay as you go, does that mean that they just pay if they have a claim?

Mr. Sexsmith: Well, actually, the term I should be using is self-insured, which means that if they have a claim they bear the cost of that claim themselves. The Class E employers pay premiums and they contribute to the collective liability of the WCB system. Whereas the self-insured employers, if they have a claim, they bear the cost of that claim themselves.

Mrs. Taillieu: So do I understand correctly then, the self-insured do not contribute to the collective—what's the word?—the collective pay, I guess, the pool, the collective pool of monies that is in the insurance for Workers Compensation claims?

Mr. Sexsmith: That's correct, yes.

Mrs. Taillieu: But, then, the self-insured agencies are entitled to all the benefits of Workers Compensation, correct?

Mr. Sexsmith: Well, certainly, the employees receive all the same benefits and entitlements, and the employers have all the same benefits and entitlements as a premium-paying employer and employee.

Mrs. Taillieu: Okay, so I just want to understand this. The Class E, the businesses that pay into the premiums, they pay into a collective pool, and when there's a claim a claimant accesses the funds through those premiums, but the self-insureds don't pay into this, but they can still access. So they don't pay into the fund, but they can access the fund.

Mr. Sexsmith: Well, they don't access the funds, no. They, in fact, are truly self-insured. For example, you know, most of them are large organizations. So what happens is they take on the responsibility themselves. If one of their employees is hurt, they bear the cost of that injury. Whereas the Class E employers pay premiums into the collective fund, as you mentioned, and so they have the benefit of a larger pool from which to draw.

Mrs. Taillieu: You say some of the larger firms, but I know Workers Compensation Board is a self-insured group, and that's about 500 employees that wouldn't be considered terribly large, so what—you know, is there a cut-off line? Like, what do you consider large? What's the designation here?

Mr. Sexsmith: I don't think that you'll find anything in the legislation that designates large. The legislation simply designates specific firms. The point I was making when I said large was in order to be self-insured, you know, generally, it's the larger sorts of organizations that are self-insured, because if you're self-insured, you're bearing the risk yourself rather than paying premiums into the larger pool. That was the point I was making.

Mrs. Taillieu: Are you self-insured by choice?

Mr. Sexsmith: The Workers Compensation Board does have the wherewithal under their regulations to change those who are self-insured.

Mrs. Taillieu: Is the Workers Compensation Board self-insured by choice?

Mr. Sexsmith: Excuse me one second. *[interjection]* Sorry; excuse me.

Yes, in fact, I guess you could term it as by choice, although it's a historical thing. The WCB has been a self-insured employer back as far as one would go. If we weren't a self-insured employer, of course, we'd be paying premiums to ourselves as any other Class E employer would be.

Mrs. Taillieu: Then the other Crown corporations, they can choose to be self-insured as well? I guess by the same argument, the government would be paying premiums to itself.

Mr. Sexsmith: They could approach the WCB asking to be changed from a self-insured employer to a Class E employer and that's something that the WCB would consider.

Mrs. Taillieu: The people insured under Class E, do they have a choice to be insured, and can they come to the Workers Compensation Board and ask to be considered to be self-insured?

Mr. Sexsmith: My understanding is that, yes, they could approach us if they wanted to change and ask for that consideration.

Mrs. Taillieu: Have any businesses actually approached the Workers Compensation Board and asked to be self-insured?

Mr. Sexsmith: I'm just trying to think back. In my term here, I can't think of—nothing comes to mind at the moment.

Mrs. Taillieu: I think it says on your Web site that requests for self-insured status, no new applications for self-insurance were granted after January 1, 1999. But just to clarify, you're saying that if a private business came to you and asked to be self-insured, that they could be, that they're not required to insure under Workers Compensation Board.

Mr. Sexsmith: I believe the answer to that is, yes, they could come and ask.

Mrs. Taillieu: Would they be granted?

Mr. Sexsmith: Well, the board would have to consider that. I guess I would have to say that it's unlikely that the board would grant self-insured status to further firms at this time.

Mrs. Taillieu: Could you explain what reasoning you would have to disallow a private corporation to self-insure?

Mr. Sexsmith: Well, I think the insurance principles here are that it's of benefit to the larger pool to have everybody paying premiums, and so that would be the thinking behind it.

* (18:20)

Mrs. Taillieu: And, yet, the self-insureds don't pay premiums.

Mr. Sexsmith: Self-insureds don't pay premiums, no, but I can tell you that this is a long-standing situation that has been in place for many years, the fact that there are self-insured employers. I might add that it is not an entirely unique situation in Manitoba. There are other provinces, as I understand, who also do the same thing.

Mrs. Taillieu: Thank you very much. I understand that, you know, sometimes practices are long-standing, but sometimes we need to look with a fresh viewpoint to look at where we've come. So just because something has always been a certain way, that's really no reason to say you can't look at other ways of doing things.

The City of Winnipeg is also self-insured. Would they be able to join the Class E group, if they so choose? Could they do that?

Mr. Sexsmith: Well, again, it would be the same situation. They could certainly approach us and request it, but it would be the board's decision.

Mrs. Taillieu: When we were trying to do some research on this, we did send in a Freedom of Information request, just to ask for a breakdown of premiums paid to the board. This is when we were informed that the Province doesn't pay premiums, but it did give us a breakdown of what is paid. It says the figures include transactional administrative fees. Could you tell me what the transactional administrative fees are?

Mr. Sexsmith: That is something I could have mentioned earlier, actually. All self-insured employers contribute to the administrative costs of the WCB. It's based on the number of transactions that take place. That's the formula that's been worked out over the years in discussions with the self-insured employers. That's simply there to make sure that self-insured employers are contributing to the cost of the system, as are the Class E employers.

Mrs. Taillieu: It also says that there've been changes in department structure. Hospitals are reflected in Health in 1999, but taken over by regional health authorities in subsequent years. Then when you look at the payments, the payments out of Health were quite substantial in 1999 and then have dropped off to about 20 percent of that in 2007. So I guess the question is: Regional health authorities, how do they insure through Workers Compensation Board?

Mr. Sexsmith: Regional health authorities are Class E employers and pay premiums.

Mrs. Taillieu: Can you explain then why one department is a Class E employer and the others aren't, or are they? For example, then, is the Department of Justice a Class E employer?

Mr. Sexsmith: All of the departments proper, I guess I would call them, the government departments are self-insured.

Mrs. Taillieu: They are all self-insured except the regional health authorities are considered Class E.

Mr. Sexsmith: That's right. I guess it's a matter of how the government organizes itself, and the regional health authorities operate as separate entities and are Class E employers. They certainly are.

Now the history of that would probably go back to the establishment of the regional health authorities. Sorry, my memory doesn't go back quite that far, but that would be the logic.

Mrs. Taillieu: It would be interesting to know when the change occurred, because there is a substantial decrease between 1999 and 2000. I don't have figures

further back than that. So you don't know exactly when this change occurred?

Mr. Sexsmith: I don't. I would only assume that it occurred on the establishment of the regional health authorities, but I'd have to verify that.

Mrs. Taillieu: There seems to be quite a fluctuation in the numbers in many of these departments from year to year with the payments made to the board. Let me just give you an example. Well, Agriculture, Food and Rural Initiatives: in 1999, it was 4.1. Then it went to 1.2. Then it went to 8.8; then 2.3; then 6; then up in 2005 0.2; down in 2006 to 7.3; 2007, 2.7.

That kind of fluctuation seems fairly significant. Is there an explanation for that?

Mr. Sexsmith: That would be entirely dependent upon their injury experience and the costs of those injuries. I would just add that what you're pointing out there is one of the disadvantages that comes with being self-insured because you, therefore, are bearing the risk of fluctuations, whereas, if you're a premium-paying employer, you may have, you know, slightly more, I suppose a steady stream of costs if you will, as long as your experience is not extreme one way or the other.

Mrs. Taillieu: If someone is insured under Workers Compensation Board, and they also have a claim under MPI, would they be eligible for both claims?

Mr. Sexsmith: They have the right to choose the option.

Mrs. Taillieu: If you're insured under Workers Compensation, you get expedited medical attention. Is that the same under MPI claims?

Mr. Sexsmith: You know what, I'm sorry, I can't speak for MPI. I'm not aware of what their medical arrangements are.

Mrs. Taillieu: I may come back to this, but I'll just move on a little bit here.

With some of the information you provided to me from the last meeting, you did give me the information on the MRIs, the number of MRIs, and the time frame which these were provided to people under Workers Compensation. Of the total of 1,897 for the last three years of 2005, '06 and '07, there are only 14 of those that received an MRI after 10 days; 1,883 actually received MRIs within 10 days. We also know that the wait time for an MRI at the Pan Am Clinic varies and fluctuates between six and eight weeks.

So it's very apparent, then, that people that are coming through Workers Compensation Board are getting preferential treatment at the Pan Am Clinic. I think that's spelled out very clearly here. You did actually talk in the committee last time about payments that were made to—if MRIs were done within four weeks, they were paid more than MRIs that were done under eight weeks and then different rates for those further than that. So it would appear that the Workers Compensation Board is really jumping the queue in regard to the general public.

So is the Workers Compensation Board operating under the Canada Health Act?

* (18:30)

Mr. Sexsmith: No, the WCB does not come under the Canada Health Act. So, as a result, we are responsible for arranging and paying for the costs of injured workers.

Mrs. Taillieu: Does Pan Am operate under the Canada Health Act?

Mr. Sexsmith: Well, I believe they do; however, you're outside of my expertise there. Probably the Department of Health would be best to brief you on that.

Mrs. Taillieu: So the Workers Compensation Board operates outside of the Canada Health Act, and they pay the costs of health care for the people who are making claims through Workers Compensation, and those claims are paid for basically by premiums from Class E employers.

So the people that aren't paying claims, like the Crown corporations and those excluded from—or I should say the self-insureds aren't paying premiums, and yet they would be able to access health care through the Pan Am Clinic the same way someone insured or paying premiums to the Workers Compensation Board would be able to do?

Mr. Sexsmith: Yes, we treat injured workers the same whether they fall under a Class E employer or a self-insured employer, but I would also add that the self-insured employers are certainly responsible for paying those costs.

Mrs. Taillieu: Okay, could you just explain that a little bit further? They would have access to expedited care by simply paying for it. Is that what you're saying?

Mr. Chairperson: Honourable minister.

Floor Comment: Yes—

Ms. Allan: Doug, honourable minister.

Floor Comment: Oh, I'm sorry.

Ms. Allan: No problem. You can have my job if you want it.

I would just like to maybe shed some light on this in regard to how this works. WCB is outside of the Canada Health Act and that is not unusual. It's been around for many, many years. It predates medicare. One of the reasons for that is because it's incredibly important to get people back to work. That's what's good for the worker and that's what good for the employer.

What happens—and this is my understanding and I'm sure the CEO could shed some more light on it. I'm sure he'll have lots of time this evening to do that. My understanding is that WCB merely buys blocks of time that are over and above regular capacity so that patients are not bumped.

Mrs. Taillieu: I believe I posed my question to Mr. Sexsmith, and he was about to answer so I'm still waiting for his answer.

Mr. Sexsmith: I wonder if I could impose on you to ask it again.

Mrs. Taillieu: I guess the question was, Workers Compensation Board operates outside of the Canada Health Act, but they can access services—the Workers Compensation Board can access services at the Pan Am Clinic. Other self-insureds can access those same services at the Pan Am Clinic, but they have to pay for them themselves.

So they're just paying for the services at the Pan Am Clinic?

Mr. Sexsmith: You're correct. We do operate outside the Canada Health Act, and so we are responsible for covering the medical costs.

We have made an arrangement with the Pan Am Clinic which is a business case which guarantees us service at the Pan Am Clinic. But, as the minister said earlier, it was a business deal that benefited both organizations in that it was of help to them in building capacity. They fit WCB cases in, as the minister said earlier, and we've been advised by the Pan Am Clinic that they do not bump health patients for WCB claimants.

But, in terms of the day-to-day management of that process, of course, that's up to the Pan Am Clinic to figure out exactly how they manage their patients.

Mrs. Taillieu: I'm just going to use this as an example. Someone who works for Manitoba Hydro has a workers compensation claim, and they're self-insured. So they haven't paid premiums to the board, but they can go and get an MRI at the Pan Am Clinic within the four-week period. Then who pays? Is it Workers Compensation Board that pays or is it Manitoba Hydro that pays, and whom do they pay?

Mr. Sexsmith: The arrangement is not different, as I mentioned earlier. The arrangement for how injured workers are treated is not different if they belong to a self-insured employer or a Class E employer. They would all have the same arrangements. So it would all be a WCB system cost.

As I mentioned earlier, the self-insured employers do, in fact, contribute to the administrative costs of the WCB, and the self-insured employers are responsible for the costs of services provided to their injured workers, whether that be compensation costs or health costs, or whatever.

Mrs. Taillieu: I'm not quite clear from your answer whether you said that the Workers Compensation Board would pay then, or the corporation itself would pay directly to Pan Am Clinic?

Mr. Sexsmith: With regard to a medical arrangement, we may very well pay, meaning we the WCB may very well pay and bill and collect from the self-insured employer.

Mrs. Taillieu: Thank you. I think that we certainly recognize the need for injured workers to return to the job as soon as possible, and should be expedited, but I think that there is an overarching concern here with the general public that they may not be able to get the same level of service. Certainly, we know just from the wait times that the general public are waiting much longer than those claiming through Workers Compensation Board and getting diagnostic services at the Pan Am Clinic. We know that. It's on the government Web site, for heaven's sake. We'd certainly be concerned about children, about the elderly, and the disabled community that might be bumped back because of expedited workers compensation.

All of these things have to be taken into consideration when you have a public health-care system that's supposed to be fair and accessible to everyone. It somehow, sometimes doesn't really seem that it is. When you talk about who is paying for the system, I think that when you talk about

Class E, the premiums taking care of the payment, again, is there fair access within that when you have self-insureds then who are not paying premiums and still having the same access to the diagnostic services. Is this fair?

Mr. Sexsmith: Well, as I said before, we don't treat the self-insured and the Class E workers any differently. So any arrangements that we make, I just want to emphasize this, any arrangements that we make for Class E employers—well, we simply don't do that. We make arrangements for WCB claimants. So there's no distinction between Class E and self-insured.

Mrs. Taillieu: What do you collect in premiums from Class E employers, and what do you collect, if anything, then, from self-insureds?

* (18:40)

Mr. Sexsmith: In 2006, we collected \$179,495,000 from Class E employers and \$22,369,000 from self-insured employers.

Mrs. Taillieu: Okay. So you said it's almost \$160 million, \$180 million, from Class E employers and \$22.5 million from self-insureds?

Mr. Sexsmith: Roughly. That's correct, yes.

Mrs. Taillieu: Yet the self-insureds get, is it, the same treatment as the Class E. There seems to be a bit of a non-level playing field here.

Mr. Sexsmith: Well, no. Actually, I wouldn't describe it that way. There simply are more employers out there under the Class E group than there are under the self-insured.

Mrs. Taillieu: Could you tell me how many employers there are in the Class E as opposed to the self-insured?

Mr. Sexsmith: There are approximately 26,000 employers that we cover. About a dozen of them would be self-insured, maybe a little bit more than that, but approximately that.

Mrs. Taillieu: That's the number of organizations, but I'm talking about the number of workers.

Mr. Sexsmith: You know what? I don't know the number of workers. I'd have to take that one under advisement and look it up. I would assume it should be roughly proportional to the way the numbers are broken out here, because Class E employers are paid based on payroll, and I think that would be roughly

similar to the experience in the self-insured as well. The bigger you are the more injuries you would have.

Mrs. Taillieu: Is that the way it works, the bigger your organization the more injuries you would have?

Mr. Sexsmith: Actually, I would hope that were not to be the way it is, but the reality of it is if you have a thousand employees you are likely to have more injuries than a firm of a hundred employees.

Mrs. Taillieu: I would have thought it would have more to do with the risk and the type of industry that you were in. Someone that's sitting at a desk in a large corporation full of 500 cubicles may not have the same risk as someone working in, you know, climbing hydro poles or something. Anyway, just a point.

I guess, when you're talking about the amount of premiums paid by the self-insureds, that covers all of the costs for everybody using the system, correct? So it seems to me, you know, we all pay taxes into the public health-care system, and then there is another group of people that pays other premiums so that they can pay for health care outside of the public health-care system. So somehow it seems that some Class E employers are actually paying double premiums.

Mr. Sexsmith: Gee, I'm not following your logic there. However, I can tell you that the public health-care system does pay for the cost of employers who are not covered by WCB. Whereas those employers under the WCB system certainly cover the costs, the direct costs, all of the costs of health care for injured workers.

Mrs. Taillieu: Everybody as a taxpayer is paying into the public health-care system, but then, again, if you're a Class E employer you're paying into Workers Compensation that then purchases health care at places like Pan Am Clinic. So you're actually paying for the purchase of that plus you're actually having paid for that service through your taxes is what I meant.

Mr. Sexsmith: Okay, I think I understand your point. However, I would come back to my point to the opposite side of the argument and hope that—those of us in the WCB system believe very strongly that it's a good, sound system, and we would love to see more people contributing to the costs of health care through the WCB system.

Mrs. Taillieu: Well, I guess the more money that's contributed to the health-care cost through WCB, the less the Province has to pay for health care.

Mr. Sexsmith: Well, that's a very good point, actually, because, you know, all injured workers who receive care through the WCB system are paid for by the WCB premium payers, whether they're self-insured or Class E employers. As a result, that cost is not borne by the taxpayer. Whereas an employer who is not covered by the WCB, that cost of taking care of an injured worker is in fact borne by the taxpayers at large.

Mrs. Taillieu: That's very peculiar, because it seems to me that those arguments can be made for different forums of health care, where someone who pays and purchases health-care services by themselves, then that cost is taken away from the public health-care system. It seems to me that's the same principle.

Mr. Sexsmith: You know, I'm sorry, I'm not following your logic there.

Mrs. Taillieu: The Workers Compensation Board is paying for health care outside of the public system, and you're saying that's a good thing because it's saving public-health dollars. But some people would make an argument that if somebody wanted to pay for services outside the health-care system they should be able to because it would save public dollars. That's not what's allowed to happen in our publicly funded health-care system. So in one way it is happening and in another it's denied.

Mr. Sexsmith: Well, I think in a way you're pulling me into a broader health-care argument here that I'm really not in a position to speak to.

Mrs. Taillieu: I guess when you look at, you know—okay, well, let's talk about expanded coverage. The more persons you have insured under Workers Compensation, the more money the Workers Compensation Board will collect. You may have more claims as well because you're going to have more people covered, but the expansion of coverage is into areas, some of them are high risk and some of them are low risk, but there is going to be more money collected for Workers Compensation. Then there's going to be more money to pay for private health care through clinics such as Pan Am, right?

Mr. Sexsmith: Well, you're right. The more employers that are contributing to the pool, the larger the pool will be. I'm not sure if that answers your question.

Mrs. Taillieu: Has the Workers Compensation Board ever considered purchasing their own MRI equipment?

Mr. Sexsmith: I'm not aware of any. Certainly not in my time at the WCB, we have not considered buying one ourselves.

Mrs. Taillieu: If the Workers Compensation Board wanted to purchase an MRI or, in fact, set up their own clinic or hospital, could they do it?

Mr. Sexsmith: Well, in theory, I believe we could, but I don't think there would be a good business case for it because I don't believe that our volume would justify it, and the administrative costs, et cetera, I am assuming they would be large. We're really not in the business of providing health care. It's not our area of expertise. So we would rather leave that to the health-care system as it is now.

* (18:50)

Mr. Cliff Cullen (Turtle Mountain): Certainly, maybe just to follow up a little bit on the line of questioning from the Member for Headingley. *[interjection]* Pardon me, Morris—I'd better not miss the southern part of that riding.

We do have the 2006 report here, and I'm just looking at page 8, the Year at a Glance, just kind of from the context here of the claim costs incurred by the board, a substantial difference between 2005 and 2006. But of that \$219 million in terms of the claim costs incurred, what percentage of those costs would be incurred in purchasing treatment or any health issues outside of the province of Manitoba?

Mr. Sexsmith: You know, I don't have a specific number for you there, but I can tell you that it would be very small. It's quite unusual for us to purchase services outside of Manitoba.

Mr. Cullen: Thank you very much, Mr. Chair, and I appreciate that response.

Just down the page there, it's the accident fund reserve balance. Can you explain that particular fund to me?

Mr. Sexsmith: The accident fund reserve balance is essentially the difference between assets and liabilities. So when we have a surplus, in 2006, it would have gone into the accident fund reserve balance, which is about a hundred million dollars, as you pointed out.

Mr. Cullen: How is that particular reserve fund—how is that balance set? Is it set for around a hundred

million dollars, or what's the premise behind having a certain level of reserve there?

Mr. Sexsmith: The accident fund target was \$180 million, approximately, and what the board does, it sets a funding policy which provides for a level of reserves. Levels of reserves are set at a level which is prudent for the size of the organization. It takes into consideration the risk of running an organization like the WCB, should there be a bad year, for example, in our investment returns, or a couple of bad years, and should there be, oh, a catastrophe where a lot of claims were incurred and whatnot.

It's prudent to have a reserve fund available to make sure that the fund isn't at risk.

Mr. Cullen: So I can just paraphrase this, and please correct me if I'm wrong here. The board would have a look at the relative size of what we do in Manitoba relative to other jurisdictions, and then is there another body that would kind of oversee and make recommendations to have you at a certain level in terms of that fund?

So it's kind of a two-part question there. You compare yourselves to other jurisdictions and then do you have another outside body that would make a recommendation to the board?

Mr. Sexsmith: No, this is an area of policy that is operated by the board. But you are right in that we do have a look at what other WCBs do. We're influenced by policies that are used in the insurance business, as well, in order to come up with a policy here.

Mr. Cullen: You had mentioned the board has a target then of \$180 million. Is that correct? That's the figure that you're trying to get at in terms of your reserve balance, is \$180 million.

Mr. Sexsmith: I believe that's the correct number for 2006. It varies. You know, it'll vary year over year.

Mr. Cullen: Well, then, it would appear you're quite short of your target. Is that something that's been ongoing in terms of your target? You actually have less in your reserve than you would wish to have?

Mr. Sexsmith: Yes, actually—I should back up a little bit here and say that the WCB is in a very positive, a very strong financial position and improving. That's why our reserves have been growing. Once you reach your target reserves, then you have to decide, you know, what are you going to do from there? But, in 2006, we're certainly not

there, and so surpluses were going towards building that.

I might add that, you know, if you compare the WCB's financial position to all other WCBs across the country, you would find us to be in a very strong position. I believe, in 2006, we were 130 percent funded. That means our assets exceeded our liabilities by 130 percent.

Mr. Cullen: When we look at this reserve fund, does that include your capital assets as well, or is this just strictly a cash position?

Mr. Sexsmith: The reserve is a cash position.

Ms. Allan: I just think it's important to note as well, when the CEO is talking about the financial shape that the WCB is in here in Manitoba, I think it's also important to note that we have the second-lowest assessment rate of any jurisdiction in Canada, and we just lowered the assessment rate. I think that's good for employers. So I just wanted to comment and put that into the mix of information.

Mrs. Taillieu: I just wanted to go back to some of the information again that Mr. Sexsmith provided from the last committee. I'm looking at a section that says WCB Set-Off, which says the WCB may set off any amount due to Pan Am under this agreement against any amount due to the WCB by Pan Am. To me that means if I owe you money and you owe me money we just make it a wash. But that, to me, sounds not quite right. There should always be an accounting of the money. So could you explain that please?

Mr. Sexsmith: I believe that provision is in the contract, and that would be a rather standard sort of a provision that would be put into a contract, so that we would want to make sure that we had the right, when we are dealing with someone, if they didn't pay us some amount of money that we owed, we had a way of collecting it.

Certainly, we're not suggesting that the appropriate billings back and forth not take place. That in fact would be what would happen in the normal course of events. But I would call that sort of a risk-mitigation clause in the contract, if you will.

Mrs. Taillieu: Thank you very much for explaining that.

Further on in the agreement between the Workers Compensation Board and the Manitoba Medical Association, you talk about compensation and administrative fees for surgical, for general,

reporting fees. Are these fees paid over and above what would normally be paid through the B schedule of MMA?

Mr. Sexsmith: Yes, they are. The primary fee contained in that agreement with the Manitoba Medical Association or the majority of the fees there are paid for the reports that we need from doctors in order to determine the nature of the injury and whatnot for injured workers.

Mrs. Taillieu: Yes, it does talk about report fees. It also talks about administrative fees. It also talks about administrative fees, surgical. So, even though there may be some additional fees for reports, are there additional fees also for general fees and surgical fees on top of report fees that would be paid to doctors at the Pan Am Clinic outside of the established MMA rates?

Mr. Sexsmith: I believe what you're asking me is: Are there additional fees paid to the doctors above what we would normally pay? I think what you're referring to is the fact that we pay a facility fee to the Pan Am Clinic for surgeries, and that particular fee—I believe we talked about this last time—is paid to the facility. You know I can't comment on whether they pay any of that to the physician or how they manage that, but that's certainly a fee that we pay to the facility.

* (19:00)

Mrs. Taillieu: It also says in this that, with prior approval from the Workers Compensation Board, physicians can be paid at an hourly rate. How is that determined? Are physicians paid at an hourly rate? What is the hourly rate? Who determines the hourly rate?

Mr. Sexsmith: Which document are you looking at?

Mrs. Taillieu: It's on page 5 of the agreement between WCB and MMA. Right at the top.

Mr. Sexsmith: That actually is for the provision of reports. Again, back to my comments earlier about the main purpose of the agreement with the MMA, it is around reporting fees. Yes, we can provide for an hourly rate for a reporting fee. That would be a little bit unusual, as I understand it. If there's a complex report, or whatnot, we may pay by the hour.

Mrs. Taillieu: Yes, can you tell me when the last time there was an audit of Workers Compensation Board's systems, governance and programs?

Mr. Sexsmith: Well, we're audited every year actually. You'll note in the annual report that we have an audit statement that's signed off by our external auditors. So that takes place annually.

Mrs. Taillieu: Yes, I'm really not referring to the financial audit. I'm really more referring to systems within the workplace, programs and governance, whether there are regular audits done within the Workers Compensation climate.

Mr. Sexsmith: Well, we do have an internal auditor as well who does audits of various components of the program annually. We do have our systems looked at by actuaries who also sign evaluation about our liabilities every year. So, certainly, we have those other audits going on.

Mrs. Taillieu: Do you have a report?

Mr. Sexsmith: Well, the annual report actually contains the report of the external auditors and the actuaries.

Mrs. Taillieu: Yes, I'm familiar with the annual report, but I'm thinking more of a more intensive kind of comprehensive study of how the systems work within the organization, how the departments would—how governance and supervision, and how the systems work within the organization—sort of a system-wide review, I guess, of the organization. Does that ever get done?

Mr. Sexsmith: You know I can't think of an example of what you're asking for or done by an external auditor, if that's what you mean. Certainly, we're constantly reviewing our systems, and we've had a number of projects on the go within the organization to revise our processes and systems, and whatnot, such as IT projects and automation business process review projects, and whatnot.

Mrs. Taillieu: Okay, thank you. Have you done a cost-and-claim study?

Mr. Sexsmith: Our internal auditor has looked, at times, at various components of our claims, adjudications and processes. Over the years we've had work done in that area.

Mrs. Taillieu: So there would be some information, then, as to the number of claims—if they've gone up, they've gone down; the costs associated—the costs if they've gone up, they've gone down; costs per claims; number of claims; severity of claims; what it costs; that kind of thing. Is there a report similar to something like that?

Mr. Sexsmith: You know I can't think of an audit-type of report that specifically covers what you're looking at there, but, certainly, we report on a number of those items that you mention in our annual report.

Mrs. Taillieu: Do you have any plans to do a cost-and-claims analysis?

Mr. Sexsmith: We don't have a specific plan to do specifically what you're asking at the moment, no.

Mrs. Taillieu: How do you determine if cases are—I'm looking for the correct word here—legitimate, I guess, as opposed to fraudulent?

Mr. Sexsmith: There are a number of checks and balances built into the system. First of all, we gather information from the employer; we gather information from the worker; we gather information from the medical system on the claims, and then we have rigorous training programs in place for our staff to make sure that they follow up on claims and that they are adjudicated.

We have rather rigorous internal auditing done of our own claims by people within the system. We also have a service quality unit which does regular audits of the system, and we have also been improving on that. We've been setting measurable targets in place for staff to work towards on what I call service, quality and control. It involves auditing by our service quality area, checking on how many corrections they may find in a particular file and measuring that so that there's a feedback loop there, so that if people are finding that there are issues at fault in a file, they make sure it gets corrected the next time.

As I mentioned earlier, we also have an internal audit unit that looks at the costs and the various aspects of the program to make sure that everything is appropriate.

Mrs. Taillieu: I'm going to pose a few questions that have been posed to me through some consultations with a variety of employers, I guess, that they're simply asking these questions that need to be asked.

Is there any way to determine, or how is it really determined if an injury occurs in the workplace or if it's an injury that's pre-existing or if it's an injury that's—well, for example, maybe somebody sprained their shoulder curling or something and they come into work and say, I've got a sore shoulder and it's work-related.

How do you determine if it's work-related?

Mr. Sexsmith: Well, as I mentioned, we gather information from the employer; we gather information from the worker, from the medical system, and we will talk to other people as well. We may, if necessary, talk to co-workers. We'll gather evidence in whatever way we can to make sure we have the best possible information upon which to base a judgment, and then, you know, you have to go with the balance of probability sometimes, what do we determine is the most likely thing to have happened there.

Mrs. Taillieu: Thank you. I guess, just going back to what I was able to read off the Internet, it says—in regard to medical evidence, it says here: "There is no requirement of objective medical evidence in Workers Compensation."

So I just wondered what that exactly means if there's no requirement of objective medical evidence in Workers Compensation. It says: "Whether evidence is subjective or objective may sometimes depend on the skill and training of the examiner, . . ." and "There's no requirement of objective medical evidence in Workers Compensation."

Does that mean that there doesn't have to be any proof that there is actual or any real medical evidence? It just could be someone thinks there is?

* (19:10)

Mr. Sexsmith: No, certainly not. I haven't had a look at the document you're reading from so I'm not sure of the context and whatnot, but, certainly, I can tell you that we do require medical evidence. I would also say that we're quite rigorous in that regard.

We have a number of medical advisors on staff at the WCB who give us advice. So, if we need to, we go to them, in addition to getting medical evidence from the claimant's own physician. We equip ourselves with the best possible information and evidence that we can to make a reasonable decision.

Mrs. Taillieu: This is another concern that has been raised to me as an observation by an employer group, that sometimes there's quite a delay in the claims, whereby an injured worker must see a doctor and then must see a Workers Compensation Board doctor, maybe needs to see a specialist, so that, just the delay in actually seeing the doctor, those delays increase the cost of the claim, because it's the length of time. Now you've got that the cost of the claim is bigger. So, then, when the rates are set for that particular employee and industry in the future, the

costs of the claims are used to set the rates. So, if the costs of the claims are higher then the rates get increased, but it's really not any fault of the person who's paying the rate. It's the fault of the system not being responsive and timely enough. Can you comment on that?

Mr. Sexsmith: Yes. At the WCB, I would say that we're very sympathetic to that issue. That, of course, is one of the reasons why we try to make sure that our claimants have access to diagnostic treatment in a timely manner and access to medical treatment in a timely manner, because that is a very important determinant in how long they remain a claim against that employer's record.

I would say that timeliness in general, whether it be service to our claimants in how quickly we're able to pay them, service to employers in how quickly we're able to respond to their concerns, and how quickly we're able to help workers recover and return to work is one of our highest priorities. If I might put in a plug for us, I would say that we've made significant improvement in timeliness over the last few years.

One of the ways we measure that is how many claimants and/or employers, although mainly claimants, have launched complaints with our internal ombudsperson. I can tell you that the numbers are down significantly there. So we're quite proud of the fact that we're making significant improvement in timeliness overall.

Mrs. Taillieu: I guess another one of the concerns that was raised was sometimes the inconsistency with a caseworker. So I'm just going to ask if there's a large turnover of staff at Workers Compensation Board, and if there are presently a number of positions unfilled which may add to delays.

Mr. Sexsmith: I don't have a number for you, specifically. We don't have a large number of employees leaving the organization. Sometimes we have people moving from one position to another, sometimes that does occur, but inconsistency of decision making, I guess, is not something that—I can't say that we've identified that as one of our bigger problems in terms of the system.

But, as I said earlier, we're certainly working to make sure that our staff do the best job that we can, not only in terms of timeliness like we talked about before, but in terms of quality control. Sure, there is some turnover in our staff. We're a reasonably large

organization so we do have some turnover and movement.

We also have what I would say were quite good training programs in place to make sure that people are able to do the jobs when they enter them.

Mrs. Taillieu: Do you have any lawsuits pending against the Workers Compensation Board at the present time?

Mr. Sexsmith: Yes, we do. We have a lawsuit pending from a couple of widows who were at one time recipients of WCB benefits.

Mrs. Taillieu: Is Workers Compensation Board presently engaged in suing anyone else, whether that be a person, an organization or a group?

Mr. Sexsmith: I can't think of anybody whom we're suing, but I'm sure I'll be reminded if I've forgotten.

Mrs. Taillieu: I'll just allow Mr. Sexsmith to answer that question.

Mr. Sexsmith: I think the main answer to that one is we maintain legal action against certain firms in the United States who are related to asbestos claims. So we do take action. We do take action against third parties occasionally in that type of case, so we do have some of that type of thing going on sometimes.

Mrs. Taillieu: Could you explain that further? You have suits against firms in the United States?

Mr. Sexsmith: That's correct. If it can be determined that an organization was negligent, a third party who's not covered by WCB was negligent, then we do have right-of-suit against them. What we do is we tend to join forces with a number of other WCBs, and we may sue an organization, for example, that would have produced something that would have resulted in asbestosis or another claim related to asbestos to recover the funds that we've paid out.

Mrs. Taillieu: So is this a kind of a class action suit you're talking about, or would it be specifically in regard to workers that would be, in the example that you're using, that had been exposed to asbestos, so you're suing the company that they worked for when they were exposed? Is it specific or is it class action?

Mr. Sexsmith: Yes, it's generally class action against a manufacturer.

Mrs. Taillieu: Okay, so then whose rights are you suing for, then, in terms of the workers in Manitoba?

Mr. Sexsmith: We're protecting the Accident Fund, I guess. For example, if that manufacturer produced

a product and that product caused all sorts of injury and harm to workers in Manitoba, then we have a right-of-suit against that manufacturer. What we'll do is we'll recover money based on the fact that we paid it out to the injured worker.

Mrs. Taillieu: Could you tell me then, over the last 10 years, of the number of lawsuits that you have been involved in whether you're suing someone or you're—let's start with the number of people that have sued the Workers Compensation Board yearly.

Mr. Sexsmith: You know, I'll have to do some research and pull out numbers for you. Off the top of my head, I couldn't answer that. People suing the WCB, I think, it would be a very unusual sort of situation.

Mrs. Taillieu: With the self-insureds, do they often get sued?

Mr. Sexsmith: In relation to WCB?

Mrs. Taillieu: The organizations that are self-insured, how many of the employees within the self-insureds would be suing the self-insureds?

Mr. Sexsmith: They don't have the right to sue under the WCB system. That's one of the provisions of the WCB system.

Mrs. Taillieu: Again, they're covered by all the restrictions and rules and regulations and benefits regarding Workers Compensation Board, but they don't pay the premiums.

Mr. Sexsmith: Yes, that's essentially correct, as I said earlier. I would just add that you mentioned that they don't pay premiums, but, in fact, they pay premiums in the sense that they pay for the costs. So it's an equivalent sort of payment.

* (19:20)

Mrs. Taillieu: I really don't mean to keep going down this route, but I am so curious about it. When you talk about the costs: the one-time costs or lifetime costs?

Mr. Sexsmith: Lifetime costs.

Mrs. Taillieu: Thank you.

Are premiums, then, based on gross income?

Mr. Sexsmith: Premiums are based on the salaries paid out by the firm.

Mrs. Taillieu: So, when you talk about the rates per hundred dollars of payroll, correct? So you're talking about the rates based on the payroll then?

Mr. Sexsmith: That's right. For example, if your rate is \$1.50, you pay \$1.50 for every hundred dollars in wages that you pay.

Mrs. Taillieu: Okay. Thank you.

I noticed just in your annual report, you're talking about your equities, the asset mix: Canadian assets, U.S. assets. I noticed there's a 19 percent U.S. asset, and we know that the United States is in an economic downturn. Some would say—and even they themselves would say—they're heading for a recession. So what pre-emptive steps has the Workers Compensation Board taken to mitigate that 19 percent investment in U.S. economies?

Mr. Sexsmith: We at the WCB operate a widely diversified portfolio, and so the portfolio was designed to make sure that we're not significantly overweight in any one area and that we have balance on both the basis of geography and type of investment. So we're not what you would call market timers. In fact, we're a much more conservative firm than that. So we think we are well positioned to last out any downturn in the U.S. market.

In fact, one might argue that this is an excellent buying opportunity in the United States, but we'll see how that turns out.

Mrs. Taillieu: Okay, let's just go right to this point.

Okay. Yes, I want to thank Mr. Sexsmith for tabling the contract for ChangeMakers, but we have a number of questions around that. We haven't had a chance to go through the contract specifically, but I did have some questions.

Last December, in this committee, it was specified that there was approximately \$65,000 a year for ChangeMakers to provide various services to the Workers Compensation Board, but I think that when we actually look at the amount of dollars it's quite a lot more. The contracts that have been awarded to both ChangeMakers and Viewpoints—and we noted that Workers Compensation Board has used Viewpoints for a number of years—so I'm just going to ask: Presently do you have a contract with ChangeMakers, and presently do you have a contract with Viewpoints?

Mr. Sexsmith: Yes, we do have contracts with both of those firms.

Mrs. Taillieu: With ChangeMakers, I know that the total that was paid to ChangeMakers over the last two years was quite substantial. In fact, the total to ChangeMakers and Viewpoints was over \$4 million.

For ChangeMakers, it was \$1 million \$860 million-and-some in 2006 and—I'm sorry—\$1.86 million-and-some. In 2007, it was \$1.69 million-and-some to ChangeMakers. To Viewpoints, in 2006, it was \$93,000, and in 2007, \$111,000. We also noted that it was specified during the last committee that ChangeMakers often subcontracts to Viewpoints, which makes it a little bit transparent to know actually the arrangement with Viewpoints. I know we all know that Viewpoints is owned by Ms. Devine, who's the Premier's (Mr. Doer) wife, and that being said—I mean, she's entitled to do a business. But we wonder how transparent it may be when it appears that there's a lot of money going to ChangeMakers, where it once was going to Viewpoints, and now it may be going through ChangeMakers to Viewpoints. We don't really have a way of knowing that. I'm just wondering if this was ever a discussion at your board.

Mr. Sexsmith: I do not recall discussing at the board the fact that ChangeMakers uses Viewpoints and that whole interaction that you're talking about. However, it certainly would be no secret; and, if asked, we would certainly disclose it. These types of issues like these, the ChangeMakers contract was reported to the board, of course.

Mrs. Taillieu: Okay, could you tell me the nature of the contract at present with ChangeMakers?

Mr. Sexsmith: Yes, we have a contract with ChangeMakers to be our—well, I guess I would call it community communications firm—our communications firm at large, I suppose. What they do for us—and that's one reason why the numbers you quoted are as large as they are, we use a retainer, so we hire them to do a large number of things for us.

A number of the figures that you'll see there will relate to the whole media campaign that we do. Just by way of example, they make arrangements to buy media time, for example, time that we pay the television ads for time on air, et cetera.

So almost everything we do that is related to media or advertising—whether it be an advertisement, you know, in an employer magazine, or whether it be advertising for new employees, they handle it for us. So that's why those numbers that you see there are as large as they are.

Mrs. Taillieu: Thank you. It's interesting that we actually put in a Freedom of Information request for this information, and we were stalled for a length of time. We still don't have—well, then we were told it

was going to be made public in 90 days, and I think what you're saying today is you have made public the contract. But it's interesting that, when you put in a Freedom of Information request and it's not answered, it raises a lot more concerns.

What is the nature of—I'm sorry, did you specify the amount of the contract with ChangeMakers at present?

Mr. Sexsmith: The ChangeMakers contract doesn't actually specify an amount. We have a retainer that we pay them, which is about \$65,000 a year. But the contract agrees for them to provide all of these types of services for us, and they laid out all of their fees for the different types of services that they do provide. So you won't find one specific amount for the services because it will vary depending on what we want them to do in any particular year. That's the way we did the RFP when we put it out for tender. So what they do is they provide us with a range of communications services in line with that.

Mrs. Taillieu: When you put out the RFP, did Viewpoints respond to that tender request?

* (19:30)

Mr. Sexsmith: I think I'm somewhat barred from telling you which firms apply for which RFPs; however, I would tell you that my understanding is that Viewpoints is not the same type of firm as ChangeMakers.

Mrs. Taillieu: Do you have a retainer, then, or a contract with Viewpoints, and what is the retainer?

Mr. Sexsmith: We have a contract with Viewpoints, yes. Viewpoints does work for us around our customer satisfaction surveys and around our employee satisfaction surveys.

Mrs. Taillieu: What is the retainer that they're on?

Mr. Sexsmith: In that case, we don't have a specific retainer. These are smaller contracts that we pay them on the basis of doing the work, as opposed to paying an ongoing retainer the way we do with ChangeMakers.

Mrs. Taillieu: Of any of the Workers Compensation Board work that you have contracted to ChangeMakers, are you aware of any of that that would have been subcontracted to Viewpoints?

Mr. Sexsmith: We are aware, yes, that ChangeMakers uses Viewpoints to do some of their work.

Mrs. Taillieu: Would you be able to say how much or a percentage of the amount of work that you contract to ChangeMakers is then subcontracted to Viewpoints?

Mr. Sexsmith: I would not be able to give you a number, but I can tell you that it probably would be a reasonably small portion in the overall scheme of the work of ChangeMakers, because the numbers that you quoted are fairly large. By far, the bulk of those numbers would be related to expenditures around the media campaign, and things like that. The type of work that Viewpoints does for ChangeMakers, I believe, is of the nature of—I'm sorry, I can't think of the right word—it's focus groups.

Mrs. Taillieu: Yes, we're aware that they do focus groups. I know that there was actually a human rights complaint in regard to one of those focus groups.

When they're doing the contract work that they do, could you explain again the nature of the questions that they put forward, if they're doing surveys?

Mr. Sexsmith: The nature of the questions would be along the lines of: Are you satisfied with the type of service that you're receiving from the WCB? Are you being treated fairly? That type of thing. It's essentially a customer satisfaction survey.

Now they also do work with our staff, and it would be the same type of thing: Are you satisfied with your job at the WCB? What type of advancement do you have? Those types of things that are designed to measure what type of job that we're doing in terms of keeping our staff content in their jobs and happy to work for us.

Mrs. Taillieu: Are you aware of any particular instances where Viewpoints would have asked any political questions in the course of doing the surveys for Workers Compensation Board?

Mr. Sexsmith: I'm certainly not aware of any time when they would have asked any political questions.

Mr. Cullen: Just to follow up on some of the discussion here in regard to this agency of record agreement, this request for proposal that you put forward, I guess this would be some time ago, more than a year ago now, how many applicants came forward in that regard? How many companies came forward from your RFP?

Mr. Sexsmith: We had seven firms put forward proposals.

Mr. Cullen: This is a new way for you to do business. That's my understanding. Previously, and please correct me if I'm wrong here, my understanding would be that you would hire or contract out with individual companies for specific studies or anything that you require in that regard, and then this is really a new way of doing business. My understanding is, you're hiring this firm to then subcontract to other contractors for your specific requests.

Mr. Sexsmith: Actually, I don't think it's a new way of doing business. We had a five-year arrangement with this firm previously, and so the RFP that we put out at this time was to go back to the market and make sure that we were satisfied that this was still the right firm to be doing the business and we were getting good value.

Mr. Cullen: So has the scope of this particular agency of record, has the scope of this contract changed from what you were doing the previous five years in terms of what they were going to offer Workers Compensation?

Mr. Sexsmith: You know, it evolves a little bit from year to year depending on what we're doing, but certainly before we retendered this contract we were doing a number of the same types of things. You know, we had a media campaign going and they were giving us advice and whatnot on that.

Mr. Cullen: Well, quite often the way to make any difference would be to look at the actual cost, and I'm just kind of wondering if you could compare what a contract like this with this particular company, ChangeMakers, was for the previous five years and how it's changed to the terms of this agreement.

Mr. Sexsmith: Well, as I said, it would be a bit difficult to compare, I think if you went year-by-year back a number of years because, you know, some of our activities have varied significantly and changed over time, but certainly, you know, we want to get good value for our dollar. That's why we went back to the market, and retendered this contract to make sure that we were getting that. This firm was the winner of the contract on that basis.

Mr. Cullen: So will you be offering any other contracts for individual situations, studies or focus groups? Will you do any of that individually as the

corporation, or will all of that be undertaken by this particular company now?

Mr. Sexsmith: Well, from time to time, we may do one-off things, and we may contract with someone else to do something for us depending on what it is. If it isn't something that's readily covered by this contract or available to us through this arrangement.

Mr. Cullen: In terms of your expansion or extension of coverages and the consultation period that we're going through, will this particular agency be involved in that process?

Mr. Sexsmith: I can't think of how it would be a significant involvement, although they do make arrangements for us around advertising and whatnot. So, if we are advertising in the newspapers and whatnot, you know, they make arrangements and design those kinds of things for us. So it's something like that.

Mr. Cullen: So this particular company will be laying out your complete, say, your complete package and how the public is going to view the Workers Compensation Board. So they are basically doing, offering everything in a top-to-bottom service of public relations service for you. Is that how this particular contract is designed to work?

Mr. Sexsmith: They do provide quite a broad range of services for us in the communications area and the media area. I'm not sure that I would say they are going to design everything for us because certainly strategy is designed by the board, but what they are really, and where we rely on them most heavily, is in our prevention campaigns and whatnot. Their really strong expertise lies in the social marketing area, so we get good advice from them around the design of programs and whatnot in that area.

* (19:40)

Mr. Cullen: In terms of going forward then, once you've kind of turned the process over to this company, and this company will then subcontract various aspects of different studies and focus groups and what have you, whoever is the winner or successful bidder for those subcontracts, will that particular information be public?

Mr. Sexsmith: You know, in that regard, it depends to some extent on ChangeMakers, because I can tell you, for example, if you put in a request for information of that type of thing through The Freedom of Information and Protection of Privacy Act, we have to look at that on the basis of the act

and its intent. Where should information be made available? Where should information not be made available? There are certain rights available to people affected by that; for example, third parties can object to sharing information.

For example, you know, if you were running a firm that was doing business in this area and you included your references or people whom you'd done business for and that type of thing, you may not want that made public or some of what you might consider to be your trade secrets. I suppose, that type of thing you may not want made public. So, you know, we would have to consider any requests like that in that context.

Ms. Allan: I just wanted to comment that I wanted to remind members opposite that Bill Norrie is the Conflict of Interest Commissioner, and he's been appointed under our watch. He has affirmed in a written opinion the right of ministers' spouses to compete for work from arm's-length agencies and Crown corporations, and, also he has affirmed that ministers' spouses may work for private companies that have contracts with arm's-length-competes with public-sector agencies.

So I just wanted to mention that I think we have done some work as a government in regard to the whole issue around ministers' spouses and conflict of interest, and there is a disclosure mechanism in place to deal with these kinds of issues that members opposite are raising.

Mr. Ralph Eichler (Lakeside): In regard to the new process that you're opening the door for for new industries to take part in the Workers Compensation insurance process, the rates, are they going to be discussed during these consultations, or are they already set in order for businesses and industries to establish a cost that's going to be borne to them as a result of their involvement if they so choose to come into the Workers Compensation?

Mr. Sexsmith: That's a very good question and in fact, you know, we're open to any discussions with firms or groups of firms who would like to come and see us and talk about that type of thing. The rates, of course, will be set as we go into next year in the same way that rates are set now on an annual basis, but we will be looking at that for various firms. The rates will be set based on information available on the—what you experience in like industries, for example. It's, of course, not possible for me to tell you at this point what they'll be because we don't

know who will be included and whatnot, but that would be our approach.

Mr. Eichler: The consultation process is not a cheap process, and I was wondering if you would be able to tell us what your projections are as far as being able to recoup some of those costs, and what the budgeted cost is for the consultation process, and what you hope to achieve as the end result of that projected cost and revenue.

Mr. Sexsmith: Well, you know, what we achieve in terms of costs and revenue at the end will depend on decisions that are made at the end of the consultation process. So that will depend on who gets covered under this initiative, if anybody, in addition to who's covered now. So I think that's a fairly vague answer. But I think, you know, in the WCB system, we're in this business to break even roughly, so we try to set premiums every year so that they meet the costs of the system, which is a bit of an estimate every year, of course. That's what we'll continue to try and do here.

Mr. Eichler: Could you tell the committee for information purposes, the way the act is currently set, there are a number of exemptions that are excluded for The Workers Compensation Act, is the act going to have to be changed to allow for these industries to be covered by WCB?

Mr. Sexsmith: No, actually, it would be done by regulation.

Mr. Eichler: Is there a particular sector that we're targeting? Are we looking at, for example, the orchard industry or the vegetable industry? There's a number of them in here that are exempt; financial institutes, for example. Is there any particular industry that you're targeting specifically?

Mr. Sexsmith: No, the consultation is being done on a broad basis. We'll wait and see what feedback we get from the various sectors and then we'll provide the government with a report on that.

Mr. Eichler: Just a hypothetical example, the banking industry is exempt. What criteria do you use to determine if, in fact—just for example, if the banking industry, some of the employees had shown an interest but not necessarily that of the ownership of the financial services, what is the process outlined whether or not they would be covered or want to be covered by WCB?

Mr. Sexsmith: Well, what we'll do is we'll see what sorts of feedback we get from every industry. For

example, there may be an association relating to the banking industry or others, or there may be individuals, or there may be individual firms who want to put in a submission arguing for one way or the other or one perspective or another.

What we'll do is we'll gather that together and see what the trends are and whatnot and what the views of the various industries are, and we'll feed that into government.

Mr. Eichler: The appeal process, could you outline that for the committee?

Mr. Sexsmith: Yes, there is I guess I would call it a three-part appeal process. If an injured worker, for example, is unhappy with a decision made, first of all they can appeal to their worker and/or that person's supervisor to see if something could be changed. So the management would have a look at it.

A second level of appeal is what we call the review office where long-time experienced staff will take an independent look at what's been done and make a ruling. That office operates independently of the claims system.

Then the third level of appeal is the Appeal Commission which is a body which operates separately from the WCB and makes rulings on cases, right or wrong.

Mr. Larry Maguire (Arthur-Virden): Thank you very much. Mr. Chairperson. I appreciate the opportunity of just going back to a question that came to my mind when you were discussing the whole issue of ChangeMakers and Viewpoints doing questionnaires, focus groups for ChangeMakers in the customer satisfaction area, I believe you indicated.

That's the area of questionnaires that Viewpoints would be sub-contracted by Changemakers to do?

Mr. Sexsmith: I believe the main area where Viewpoints does work for ChangeMakers is in—oh, gosh, I lost the word again. *[interjection]* Focus groups, thank you—is in focus groups. Those focus groups are really designed to test the effectiveness of some of our advertising that we do.

Mr. Maguire: Just the focus groups, the timing of them, how many people would be at each one approximately?

Mr. Sexsmith: The focus groups would be done sort of at the end of the year kind of thing, so that we

could test how the media work had turned out the previous year. *[interjection]*

Pardon me. It's a good thing I have people here. The focus groups occur at the front end to test the design of the ads, and then at the end we do surveys to test how they worked out. Excuse me.

Mr. Maguire: Thanks. It wasn't meant to be a trick question. I just want to thank you for that.

When you're doing the work through Changemakers, any idea how many questions they would ask on the customer satisfaction surveys?

* (19:50)

Mr. Sexsmith: Just for clarification, the customer sat is not subcontracted to Viewpoints through ChangeMakers, but there would be about 30 questions, I think, is what you were getting at there.

Mr. Maguire: I understand that ChangeMakers does the surveys, and there are about 30 questions.

Are those questions ever made public?

Mr. Sexsmith: I believe that we have actually made those questions public in the past.

Mr. Maguire: Would we be able to get a copy of them?

Mr. Sexsmith: The short answer is yes. Apparently, those are available. They can be made available.

Mr. Maguire: I would appreciate getting a copy of those then. Where would they come from, and who would I—when will I get them?

Mr. Sexsmith: I can certainly make an undertaking to provide that as follow-up to this meeting.

Mr. Maguire: Just a follow up to that then, would there be similar questionnaires that Viewpoints would use in their discussions of the focus groups that they have, and would those be available?

Mr. Sexsmith: Now that one may not be quite so straightforward, because our contract is with ChangeMakers there, so that one I'd have to take under advisement and look at it, as I mentioned earlier, in the context of what can be made available through the FIPPA process and what can't. We use that as guidance.

Mrs. Taillieu: I just had a chance to look through this agreement with ChangeMakers, and I have a question. Under consortium allowed, it says a firm may present a response that indicates the firm will

carry out all work, or it could—basically, I won't read the whole thing, but it can subcontract with partners or subcontractors, and responses—I guess I would just put the question: When the request for proposal was put out and ChangeMakers bid on this tender, when they bid on it, did they submit a bid that included Viewpoints as a consortium or subcontractor?

Mr. Sexsmith: No, they did not. However, we were aware at the time that they were using Viewpoints and other suppliers.

Mrs. Taillieu: I believe it says in here that all companies must be identified in the response. Did ChangeMakers identify other firms that they would be subcontracting to?

Mr. Sexsmith: No, they didn't. My understanding is that, no, they did not.

Mrs. Taillieu: Yet once they were awarded the contract they did subcontract out. Did they or did they not in their tender, then, say that they would be subcontracting out to other firms?

Mr. Sexsmith: You know, just in general, on this particular point, I think I should point out that various provisions are built into these contracts and whatnot for the protection of the WCB, and we manage these contracts. We may put provisions in here that say someone should advise us of this or that, and we will adhere to that as it's appropriate in the various circumstances.

But, certainly, I would say that my understanding is that ChangeMakers' bids and whatnot were handled in the same way as anybody else who made the bids, and that anybody who is in this business was certainly well aware that they would use other suppliers.

We're concerned that when someone puts forward a bid for a contract like this that they, in fact, are possessing the core expertise, I guess I would call it, and we're certainly not concerned if they have to contract out, or subcontract, or use various suppliers for some of the non-core activities. So that's the way we manage these contracts.

Mrs. Taillieu: Yet, in this signed agreement, it says: "In the event no sub-contractors are identified in the response, this will be interpreted as the consulting firm proposing to complete the work with their own resources. Once the contract is awarded, sub-contracting will not be allowed without the written permission" of the Workers Compensation Board.

So, then, did the Workers Compensation Board give permission for ChangeMakers to subcontract to Viewpoints?

Mr. Sexsmith: We certainly were aware that, yes, they were subcontracting with Viewpoints, and we didn't have any objections to that.

Mrs. Taillieu: Yet they did not specify in their bid for the RFP that they would be using Viewpoints or any other subcontractor.

Mr. Sexsmith: That is my understanding. However, we certainly were aware of it. We have had experience with them in the past. If they were to use Viewpoints or anybody else, that certainly would have been at their lead.

Mrs. Taillieu: So, when you say you were aware of it, you were aware that they were going to use Viewpoints, but it was not put into the contract in writing?

Mr. Sexsmith: We were aware that they were using Viewpoints. In fact, we have frequent discussions back and forth with them about the various activities that they were doing and, yes, we were aware that they were using Viewpoints.

Mrs. Taillieu: Why would they not be required to list Viewpoints as a subcontractor, or any other firm that they would be subcontracting to?

Mr. Sexsmith: Well, you know, that's simply a question of how we've managed this particular contract. As I mentioned before, certainly we could insist that they do that if we chose to do so. We have not insisted that they provide everything in writing because we have a day-to-day working relationship back and forth and we're well aware of what they're doing.

Mrs. Taillieu: Is this the general practice, then, with other RFPs, that the contract as it is written and signed is not necessarily adhered to, only that there's just agreement, an understanding?

Mr. Sexsmith: Well, certainly, we put provisions into contracts to make sure that we're protecting the WCB, so that if we have concerns about anybody that they're using—and I think I alluded to this in one of the earlier topics we were discussing—certainly, our goal is to make sure that we're protecting the WCB. In managing this contract, if we ran into concerns or problems with the service that was being provided or with someone that they were using where we were very unhappy, we would certainly take action, and we would have the wherewithal

under this contract to make sure that we were able to correct that.

Mrs. Taillieu: Was there any discussion or direction given then to ChangeMakers to not include Viewpoints in the written contract?

Mr. Sexsmith: No. There was no instruction of that nature given to any of the bidders.

Mr. David Faurshou (Portage la Prairie): Just harking back to one of the questions that popped into mind regarding health-care services purchased, what percentage of the health-care services purchased by the Workers Compensation Board would be of a public nature versus a private nature, a percentage?

Mr. Sexsmith: I'm not sure that I have a percentage for you, but certainly the vast majority of medical services purchased would be through the public medical system. Just off the top of my head, the only private organization that comes to mind is the Maples clinic, who we do use for some surgical services, and we did use them for some MRI services. So, in the scheme of things, it would be quite small.

Mr. Faurshou: I was just referring to some of the medical practitioners who own their own clinics, as well as those where dental services may be employed. Also, all doctors' clinics are basically owned by the doctors themselves. So I thought it would be fairly substantial. In any event, I'd be curious to know as to what percentages are of the health-care dollars expended. You could refer to it at a later time if the percentages are not available.

* (20:00)

If you could just walk me through the procedure, if you will, of an injured worker coming to you that has had an injury in the workplace and just explain to me how a particular claim would be handled and brought to your attention.

Mr. Sexsmith: Well, once an injury occurs in the workplace, there's a requirement that the employer report the injury to us within I believe it's five days, actually, the legislation says. So the employer has to provide a report. We receive a large percentage of those reports from employers. We also get a large number through the medical system who are our first report and some directly from injured workers.

So as soon as we're made aware of that, we'll be in touch with the injured worker and the employer, and we'll start to gather medical information and whatnot. We'll feed that into our adjudication system

where an adjudicator will make a decision as to the eligibility of the claim.

Mr. Chairperson: The hour being past 8 p.m., the committee agreed to review the sitting time at this point. What is the will of the committee?

Ms. Brick: Mr. Chairman, we are interested on this side of the table in seeing the reports pass, so we would be very interested in continuing to sit longer so that the questions can be answered and the reports can be passed.

Mr. Chairperson: Okay, I didn't hear a specific time frame in there. Is there a time frame that the committee wishes to review the sitting time?

Mrs. Taillieu: I suggest we go another half hour and reassess.

Mr. Chairperson: It's been suggested that the committee sit for an additional half hour—that would be 8:30 p.m.—and then recess at that point in time?

An Honourable Member: Reassess.

Mr. Chairperson: Reassess? Reassess at that time, sorry. Is that the will of the committee?

Ms. Brick: It's agreed on this side, Mr. Chairman, provided that we can get the questions answered that are needed and we can look at passing the reports. That's our interest.

Mr. Kevin Lamoureux (Inkster): I like the suggestion in terms of reassess at 8:30, and I would anticipate that there's a very good chance that one or two reports might be able to pass. I wouldn't necessarily make the assumption that all the reports would pass. But suffice to say we should go to 8:30.

Mr. Chairperson: It seems like there's an agreement of the committee, then, to continue sitting until 8:30 to allow questions to continue and then reassess at that point in time. Is that agreed? *[Agreed]* Thank you to members of the committee.

Then we'll continue with the questioning. I believe, Mr. Faurschou, you had the floor.

Mr. Faurschou: So then the claim is in the adjudicator's hands and if things do not go according to the satisfaction either of the employer or of the employee, then it's handled by an appeals mechanism which was alluded to earlier?

Mr. Sexsmith: Yes, that's correct.

Mr. Faurschou: When do the workers' advocates actually get engaged then?

Mr. Sexsmith: This is the workers' advocate. You're talking about the worker advisor office, the advocates there? I think they could get involved at pretty much any stage in the case if someone goes to them for advice and they find that the person is in need of advice and helping them work through that system.

Mr. Faurschou: I appreciate the worker advisors who understand the system and know how to work through it if there is a problem.

But we understand by the Ombudsman's report as of last year that there were a number of complaints made to the Ombudsman's office, and it's obvious that there are still some concerns even though you have a rather elaborate appeals mechanism. Are there efforts to be made that are going to try and lessen these? Perhaps, maybe, you could tell me whether or not the cases that were brought forward last year were more or less than previous years to the Ombudsman's attention.

Mr. Sexsmith: I don't have the numbers in front of me here tonight, but it's my understanding that the number of cases going to the Ombudsman's office has decreased significantly over the past few years. This goes along with some of the service quality efforts that we've been making as an organization.

Just in terms of the types of cases that you may be referring to that are particularly difficult cases, or where a claimant may have a particularly hard time dealing with an injury and may want to appeal or may be dissatisfied over a longer period of time, we do have a special unit that deals with that type of case. So we try to put in some extra effort to make sure that if they have special problems and whatnot they're dealt with.

We generally find, not a hundred percent of the time, but I think the majority of the time, when the Ombudsman becomes involved they tend to find that we have dealt in a reasonable way with the case.

Mr. Faurschou: I'm just wanting to make certain that persons understand fully their avenues of appeal if they are yet unsatisfied, or employers are unsatisfied. Is this information conveyed to them at any juncture in time? Like if, in fact, the adjudicator is under pressure, that they then make the individual aware that they can speak to a supervisor, and, following that, the supervisors are unable, do they make them aware of the reviewing office? I'm asking, you know, the transparency that there is in the overall appeal mechanism.

Mr. Sexsmith: Yes, we do make considerable effort, actually, to make sure claimants understand both their rights and their responsibilities in the system. For example, the appeal mechanism is explained and contained within all of our decision letters, and we have a book called the workers' handbook that explains to them their rights and responsibilities. So we go to some considerable effort to make sure that they understand that.

Mr. Faurshou: Yes, well, I refer though to that timeliness, and I know that letters sometimes do take what I refer to, perhaps, as oxcart travel between places here in the province. Timeliness is very important to those who are in need and have their livelihood altered, and also the need for continued income coming into their households. So I would hope that persons in your purview do make the extra effort to make the individuals aware of the appeals mechanism on a most timely basis is where I'm going with this. Because if a person is denied income and is still unable to have gainful employment, things get pretty lean pretty quickly in households.

Mr. Sexsmith: I think I can only agree with you and say, yes, that's good advice. It's certainly one of our key objectives in the system is to provide good service in that way.

Mr. Faurshou: I am aware of one case where there was an error made, whether it be by the doctor or by the technologist doing the radiology, but the wrong hip was examined. It was a left hip that was injured, and the right hip was X-rayed. Obviously, when you looked at the X-ray there was nothing wrong with the right hip, but by the time it got around to correcting this, what meant to be just "I call you, you call me and we'll get this thing resolved" has been months in the rectification.

It's not all on your quarter; I won't say that it is, but it's just absolutely beyond my comprehension how something that was, to me, so easily rectified has taken such an inordinate amount of time. In the meantime, the individuals are down to, you know, not much more than bread and water on the table for the family and kids.

* (20:10)

Mr. Sexsmith: Well, you know, unfortunately, I'm not familiar with the specific case you're referring to, but, certainly, every once in a while something does go wrong. I guess the measure for us is, if we make a mistake or a mistake is made in the system, how

quickly can we rectify it? If we didn't do that as quickly as we should have in this case then we should certainly be learning that for the next time.

I guess you made a point about communication, and I guess it's been my experience that communication, especially in the medical area, is one of the key things that we can do. For example, we have made a real effort to make sure that the medical advisers that we use within the WCB are picking up the phone and calling the medical people in the communities to make sure that we're not arguing back and forth about what's the right decision. Doing that type of thing, which I would call just sort of good management of the claim, has—we've made a number of improvements like that. Those are common-sense things that have really helped us with the kinds of issues, maybe not that one, but the kinds of issues you're talking about, I think.

Mr. Faurshou: So how much time, then, would it take to get to a supervisor, for instance, if the adjudicator appeared to have a problem, the adjudicator and—how long would it take you to see a supervisor and then follow that on up to the reviewing officer, following that up with the commission? What's the time frame elapsed?

Mr. Sexsmith: Well, access to a senior person in the organization can happen very quickly if someone calls. Once you get into the more formal, if I can call it that, parts of the appeal process, it can be quite timely because there can be further information gathering and whatnot. In addition, the appeal process doesn't have a timing deadline, so people can appeal on decisions that have been made quite some time ago. So I'm not exactly sure how to answer your question other than I would say that it should be quite timely at the first stage, and it can take longer from there.

Mr. Lamoureux: I want to use a specific, let's say hypothetical, situation of an injured worker who gets injured, let's say in 1995, and is making gross \$2,000 a month. What would he or she anticipate in terms of compensation? Is it not a percentage?

Mr. Sexsmith: Yes, they should be getting 90 percent of their net income.

Mr. Lamoureux: So Workers Compensation doesn't look at gross; they focus on net based on the previous year's T4 and then it would be 90 percent of whatever that would be.

Mr. Sexsmith: Yes, that's roughly correct. Yes.

Mr. Lamoureux: So let's say in this case that would then be \$1,800. If their net was \$2,000 a month, they should be getting approximately \$1,800. Now, that would be in 1994 or '95, whatever year it is I said. What would they be making today if they were unable to go back into the workforce because of the severity of the accident? It's a roundabout way asking about the COLA, the cost-of-living increase.

Mr. Sexsmith: I don't know if I'm good at these calculations in my head, but I can tell you that the benefits available under the WCB are subject to indexing every year. So we do keep up with the cost of living.

Mr. Lamoureux: I think you answered right at the very end, cost of living, indexed according to cost of living.

In going through the report, this would be your annual report of 2005 and I don't see a page number on it, but it's Year At A Glance. Oh, 14, I'm sorry, page 14. There are 382,000 individuals that were covered in 2005, and 380,000 in 2004. Is that all just workers that Workers Compensation is responsible for, or would that include workers that were talked about earlier whether it's the City of Winnipeg that you're just providing services opposed to the actual compensation benefits?

Mr. Sexsmith: I believe that would cover them all, both self-insured and premium-paying employers.

Mr. Lamoureux: I don't know the exact number. I believe it's 500-and-some thousand people that are employed in the province of Manitoba. So that means 382, let's say in 2005, actually had workers compensation benefits. Could you provide some sort of breakdown of what type of compensation would be available, if any, for those other 150-plus thousand people? That would be back in 2005.

Mr. Sexsmith: You know, I can only answer that, I think, in a very general way, and the answer to that would, of course, be it depends on the employer and what kind of benefits did they make available.

Probably for some of the smaller employers our experience would be that they may not have any coverage. Large companies tend to have benefit packages that would include some sort of disability coverage. So, I'm sorry, I can't give you a number, but certainly it would vary by employer.

Mr. Lamoureux: Does Workers Compensation look into or investigate those that are not being insured to see why it is that they might not be insured? An

example that I may provide would be there seems to be a tendency to want to contract out. By contracting out, you're in essence hiring an employer. An example might be for a courier service or something of that nature.

Would those individuals be covered through Workers Compensation, as an example?

Mr. Sexsmith: I think the answer to your question is yes. If there is an industry that is covered by the Workers Comp and we think that there is something going on there where someone is trying to bend the rules, if you will, to not cover an employer, we would simply investigate that. We would investigate that type of situation with an employer and we would investigate it with a worker. You know, we would look at any situation where we thought someone wasn't following the rules sort of thing.

Mr. Lamoureux: I know I am aware of one case, and I'm sure that you likely are yourself, of cases where you have a worker who gets injured at work and for whatever reasons compensation wasn't being paid. What would happen in a situation of that nature, where the individual worker truly believed that he or she was receiving or paying into benefits or entitled to workers compensation; no fault of their own the employer wasn't classified. The one example that I have is more of a gentleman—this was years ago now—where he was I think manufacturing bed frames and got popped with a spring, ended up getting some sort of a flesh-eating disease around his thumb, really serious. What was thought an innocent accident turned out to be quite serious.

But the question specifically is: Do you run into situations where workers are injured in a workforce, for all intents and purposes a real bona fide genuine workforce, and for whatever reasons the employer didn't have it registered? What would happen to the employee in that situation?

Mr. Sexsmith: I think it's really important to note that if a worker is in a covered industry, an industry that the WCB has jurisdiction over, then they are eligible for benefits even if the employer is negligent. What I mean by that, if the employer, for example, has somehow managed to hide from us and we don't know they're out there or something like that, or if they haven't paid their premium or whatever, that worker, if they're in a covered industry, they are still eligible for the benefit.

Mr. Lamoureux: I am encouraged by that comment.

I wanted to move on to the *Committed to Fairness* document and I bypassed the 2005. I believe I went right to 2006. Again, we get some statistical breakdowns. What I was interested in is to try to get—because I haven't really found it and you might be able to point it out somewhere in a document. What I am interested in is the overall estimate of numbers in, for example, 2005 or 2006, how many real numbers of injured workers would have put in a claim?

Mr. Sexsmith: Well, we have about—I don't have the number in front of me, but it would be something in the area of about 36,000 claims a year. That would be time-loss claims and claims that are not time-loss.

* (20:20)

Mr. Lamoureux: If you were to—and again I can appreciate you might not be able to provide precise numbers. You can either get back to me on it or provide your best guesstimate at this point. I'll leave it up to you, but if you take a look at that 36,000 and you were to break that down, what would be your—in three months, out of that 36,000, what percentage are actually cleared and off the table, type of thing, within that three-month time frame?

Mr. Sexsmith: Actually, I'm looking at the 2005 annual report in front of me here and the number is 35,467 would be the total. I think your question was how many are gone within the first three months. We tend to measure it, actually, in terms of the first eight weeks. I can tell you that the vast majority of claims are much shorter than that. So the vast majority of claims are very short in nature, just a few days.

Mr. Lamoureux: What percentage would it be that would exceed a year?

Mr. Sexsmith: Sorry, I just wanted to clarify that it's actually 85 percent are gone within the first eight weeks.

Mr. Lamoureux: What percentage would be still around after a year?

Mr. Sexsmith: Approximately 5 percent might still be around at the end of the year.

Mr. Lamoureux: I do realize that there are some time constraints. I do have one other question that maybe you can get back to me on, because I'd like to see an actual precise percentage, if at all possible. The appeal commission, the final appeal, we like to think that we are client-friendly where we don't want clients to believe that they have to hire a lawyer in order to insure that they're going to get fair

representation at that appeal level. What interests me is: What number, when you take a look at the overall number of people who go through that final appeal, what percentage of them would actually hire a lawyer? Then if you take a look at that grouping, the ones who have lawyers, and the ones who do not have legal counsel, what is the success rate between those two?

Again, I'm not necessarily looking for an immediate answer. If you have it, great. If not, if you could just mail it to me, I would appreciate that.

Mr. Sexsmith: Yes, I can undertake to do that.

Mr. Chairperson: Mr. Lamoureux, you're concluded?

Mr. Lamoureux: Yes.

Mrs. Taillieu: Yes, we're prepared to pass a couple of reports.

Mr. Chairperson: No more questions from committee members?

Okay, we'll then proceed to the reports.

Annual Report of the Workers Compensation Board for the year ended December 31, 2005—pass.

Shall the Annual Report of the Workers Compensation Board for the year ended December 31, 2006 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The report is not passed.

Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2005—pass.

Shall the Annual Report of the Appeals Commission and Medical Review Panel for the year ended December 31, 2006 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The report is not passed.

Workers Compensation Board 2005-2009 Five Year Plan—pass.

Shall the Workers Compensation Board 2006-2010 Five Year Plan pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Chairperson: I hear a no. The report is not passed.

Shall the Workers Compensation Board 2007-2011 Five Year Plan pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no. The report is not passed.

Ms. Allan: Thank you very much. I'd just like to take this opportunity to say thank you to Mr. Sexsmith for having given the members such great answers this evening, thorough answers. I would like him to take this opportunity to introduce the staff that he has with him this evening.

Mr. Sexsmith: Thanks very much. I'd like to do that.

Starting from this side to the other side, I have: Lori Sain, who's our Corporate Secretary and General Counsel; David Scott, who's our Vice-President of Rehabilitation and Compensation; Alice Sayant, who's our Vice-President in charge of Employer Services and Prevention; and Warren Preece, our Director of Communications; and Harold Dueck, our Chief Financial Officer.

Mrs. Taillieu: I just want to, again, thank Mr. Sexsmith and Mr. Farrell for coming to the committee tonight and the staff for all the work that they do. Thank you very much.

Ms. Brick: I just wanted to make the offer, if it would help at all, where we could sit a little longer if it would help to have more questions answered to be able to pass some of the other reports. So I just want to make that offer to the opposition.

Mr. Lamoureux: I know, myself, I have a series of additional questions that I would like to ask. I think having passed, I think, three reports is probably good for this evening. I think we could have another meeting in which we could look at passing, but that will be up to the House leaders to decide unless the critic of the official opposition wants to see others passed tonight.

Mrs. Taillieu: Yes, we certainly have, as Mr. Lamoureux has said, passed some reports tonight, but we would always welcome the opportunity for further committees. We will have a number of questions that will be arising, I'm sure, with the consultations that may be going out and with the expansion of coverages.

So we'd like to have this opportunity to disseminate *Hansard* and have feedback from a number of people that will also have a lot of questions. So, in the future, we look forward to more committee meetings. Thank you.

Mr. Chairperson: There are no further questions of committee members then?

What's the will of committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Committee rise? The hour being 8:27 p.m., committee rise.

For the benefit of future committee meetings, if you have any reports that you don't wish to use, would you please leave them behind for future meetings.

Thank you for the co-operation of committee members here this evening. Committee is adjourned.

COMMITTEE ROSE AT: 8:27 p.m.

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<http://www.gov.mb.ca/legislature/hansard/index.html>